

S/N 10/057,719

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Stephen J. Garske
Serial No.: 10/057,719
Filed: January 25, 2002
Title: GOLF CUP SLEEVE

Examiner: Mark Graham
Group Art Unit: 3711
Docket: 617.039US2

DECLARATION UNDER 37 C.F.R. 1.132

Assistant Commissioner for Patents
Washington, D.C. 20231

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DEC 18 2002

Dear Sir:

TECHNOLOGY CENTER R3700

1. I, Stephen J. Garske, am the named inventor of the subject matter claimed in the above-identified U.S. Patent Application.
2. I have read and understood the Office Action issued in the above-identified application dated September 10, 2002.
3. I submit this Declaration under 37 C.F.R. 1.132 in order to demonstrate that the recitations of the claims in the Application do in fact make the claims non-obvious over the cited references in a manner sufficient to satisfy the requirements of 35 U.S.C.103(a).
4. My experience qualifies me to give an opinion as to the matters stated below, including the routine skill in the art of golf cup design. I am President of Par-Aide Products Co., a manufacturer of golf course supplies, and I am an inventor in 5 issued patents, all in the technical area of golf course supplies.
5. In the Examiner interview of October 31, 2002, claim 1 was discussed in view of the Boyd reference (UK patent application 2,206,804). The Boyd reference discusses a liner for a golf cup. The Boyd liner is a strip of flexible plastic which is folded and placed inside a cylindrical golf cup leaving a seam. Such a seamed design allows sand or dirt to work their way through the seam and lodge between the liner and the cup. This enlarges the seam to allow more and more sand to enter the seam, which finally unfixes the sleeve from the cup. This could cause a blockage for a ball falling into the cup and/or interfere with the flag stick insertion or removal. Also, the seam leaves an edge which is easy to snag on hands or clubs during use.
6. Claim 1 of the above cited application recites, *inter alia*, a "sleeve comprising a one-piece, seamless cylinder." Such a seamless design overcomes the disadvantages and deficiencies of the Boyd liner discussed above.

7. Par-Aide manufactures a golf cup under the trade name Ever-White cup. Exhibit A shows page 30 of the 2002 Par-Aide catalog showing the Ever-White cup. The Ever-White cup corresponds to the claimed invention of the present application since the Ever-White cup includes each limitation recited in the claims.

8. I also submit, as evidence that the claimed invention is not obvious in view of Boyd, Exhibit B. Exhibit B shows a chart of sales volume showing the commercial success of the Ever-White cup.

9. The chart of Exhibit B details the sales of the Ever-White cup over a three year period (with the 2002 sales covering January through October). The chart also shows sales of the standard aluminum cup (Model # 930) sold by Par-Aide. Before the introduction of the Ever-White sleeves, Par-Aide sold an average of 34,721 standard cups per year for the four year period of 1996-1999. In the year the Ever-White cup was introduced, the Ever-White cup had sales of 31,858 compared to sales of the standard aluminum cups of 33,163. Thus, Par-Aide almost doubled sales of aluminum putting cups with the introduction of the Ever-White design. Most importantly, the dramatic first year sales of the Ever-White were not the result of drawing off customers of standard aluminum cups. In contrast, the sales of the Ever-White cups were new sales, which almost equaled sales of the standard cup in their first year. Thus, the sales numbers of the Ever-White cup compared to sales of the regular aluminum cups show the immediate commercial success of the item in the golf cup marketplace.

10. The claimed "seamless" feature of the Ever-White design is responsible for the commercial success of the product. As noted, sales of the Ever-White cup did not take away from or cannibalize sales of the existing aluminum cups. Accordingly, these new sales were attributable to the seamless sleeve and not to a buyer switching over from the regular cups to the Ever-White cups. Furthermore, Par-Aide sells these products to golf course superintendents, who typically rely on the utility of a product when deciding to buy, and not on how a product is promoted or advertised.

11. Exhibit C is page 30 of the October 2002 issue of Golf Course Management magazine, a trade magazine for golf course superintendents. On page 30 is the monthly Super Tips column, which in this issue asks for tips on ideas for repainting golf cups. The unsolicited

testimonials of the advantages of the Ever-White cup are further evidence of the non-obviousness of the present claimed invention.

12. For the above reasons, it is my considered and informed belief is that the claimed invention is not obvious over the Boyd reference.

13. I further declare that all statements made herein of my own knowledge are true, and that all statements made on information and belief are believed to be true; and further, that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

12/6/02
Date

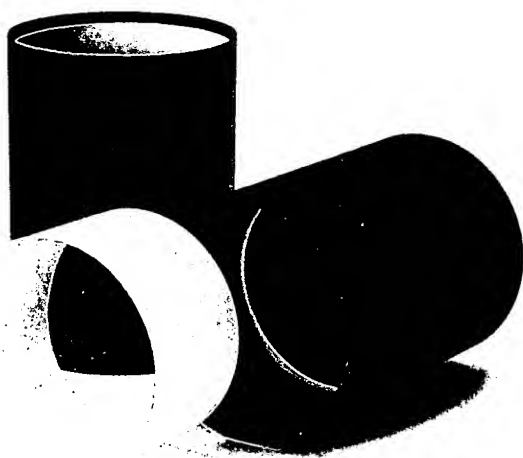
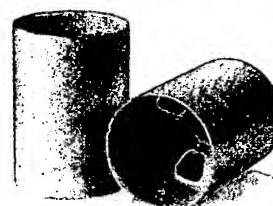
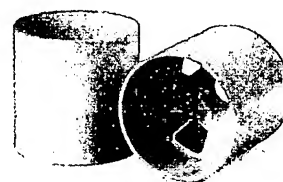
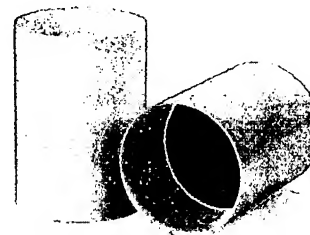

Stephen J. Garske

EXHIBIT A

Putting Cups: Give your players a glorious target.

Our Ever-White™ Cup revolutionizes putting cups with its aluminum outside and bright white plastic sleeve. Because there's no paint to chip, you'll never have to strip, sand or paint your aluminum cups again. The sleeve stays tight in the cup during play, but it is easy to replace. Best of all, your golfers will still hear the classic aluminum sound when the ball drops in.

Of course, we still offer the durable bright white Cyclac® plastic cups that feature minimum taper for a snug fit. Our classic aluminum cups are die cast oversize, machined to precision dimensions to minimize "wobble" in the hole, anodized and dichromated for ultimate corrosion protection. Finally, the inside walls *only* are powder-painted white for visibility—no paint to chip on the bottom.

**1. Ever-White™ Cup****2. Plastic Putting Cups****3. Practice Green Plastic Putting Cups****4. Aluminum Putting Cups****1. Ever-White™ Cup**

Aluminum cup complete with plastic sleeve. Meets all USGA regulations. Patent pending.

Weight: 2 lbs (0.9 kg)/each

935
\$19.00

Ever-White™ Cup Replacement Sleeves

Case of 18. (sleeves not sold individually)

Weight: 1 lb (0.45 kg)/each

935-1
\$23.50

2. Plastic Putting Cups

Weight: 0.5 lb (0.23 kg)/each
920 6" (15.2 cm) Regulation Cup
\$5.50

3. Practice Green Plastic Putting Cups

Weight: 0.5 lb (0.23 kg)/each
940 4" (10.2 cm) Practice Cup
\$4.15

4. Aluminum Putting Cups

Weight: 2 lbs (0.9 kg)/each
930 6" (15.2 cm) Regulation Cup
\$18.50

5. Painting Disks

*(not shown)
For masking bottom of aluminum cups when repainting.*

931 Painting Disks, set of 50
\$16.00

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Exhibit B
Par-Aide Cup Sales – 1996-2002

	Aluminum Cups (#930)	Ever-White Cups (#935)
1996	28,867	—
1997	32,616	—
1998	39,048	—
1999	38,353	—
2000	33,163	31,858
2001	24,337	37,790
2002 (through Oct.)	16,564	27,568
Total	212,948	97,216

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Color of the cup

I have been repainting cups, and sanding the old paint out of the cup by hand before I put primer on has been very slow and tiring. I was wondering how others sand the inside of their cups. I am hoping to get some cheap, innovative ideas that will make this a lot faster and easier.

— Dylan Saam, spray and irrigation technician
Cary (Ill.) CC
one-year GCSAA member

I have used cups with liners, but I was not pleased with the color of the liner (not a really brilliant white). So I rotated painted ones with the lined ones. I put out the painted ones for tournaments. When we paint, we have two ways of removing the old material. First, go to Home Depot and get a galvanized steel pan (looks like an oil pan). Then get two gallons of heavy-duty paint stripper. Pour the stripper into the pan, and set six cups in the solution for a few days. Then simply wash them off, prime and paint. No mess, no fuss.

— Curtis F. Nickerson,
director of golf course maintenance
OneSource at Pompano Beach (Fla.) GC
eight-year GCSAA member

I used to take a cylinder hone (which was just the right diameter) and put it in a drill press. Just move it up and down a number of times, and it's smooth. Try it if you have a drill press.

— Russell Miller, superintendent
Southport GC, Mashpee, Mass.
seven-year GCSAA member

Before I began using cups with plastic liners, I would brush on paint remover and let it set for a couple of minutes. By the time we were done applying the remover to 36 cups, we would start back and wash the old paint out with soap and water. Before we painted the cup, we wiped it down with thinner. The cup would look new when done. No primer, no sanding. I am currently using cups with plastic liners. We got two full years of use out of the first set. It did work out to be less expensive than painting.

— Jim Sims, superintendent
Del Lago GC, Vail, Ariz.
six-year GCSAA member

I switched to the cups that have the liner in them. Used to paint, but never again. It will save you in the long run.

— Sam Hocutt, CGCS
Pawleys Plantation, Pawleys Island, S.C.
12-year GCSAA member

ParAide's Everwhite cup with the plastic liner is the best innovation in a couple of years. We used to use paint stripper with every refinish job. That was messy and smelly. The liners do not scratch or chip, and the natural aluminum bottom holds up beautifully.

— Richard Lange, CGCS
Meadowbrook CC, Racine, Wis.
19-year GCSAA member

After watching my staff paint cups every two weeks, I decided to have them sandblasted and powder coated instead. They last about half the season, and cost out the savings in labor — you'll be way ahead.

— Tim Kubash, superintendent
Salmon Arm (British Columbia, Canada) GC
six-year GCSAA member

I have (sandblasted) in-house plenty. We have resorted to paying a local guy \$6 to sandblast them or \$8 to sandblast and paint them with a polymer. They last twice as long as Rustoleum, but we change them out very often anyway. I don't think we save money this way, but we prefer it.

— David Williamson, assistant superintendent
Coral Creek Club, Placida, Fla.
eight-year GCSAA member

This month's *Super Tips* column was adapted from messages posted on the discussion forum in the members-only portion of GCSAA's Web site at www.gcsaa.org.